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5 IN THE UNITED STATES DISTRICT COURT
6 FOR THE DISTRICT OF ARIZONA
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8 United States of America,)
9 Plaintiff,) CR 11-961-PHX-FJM
10 v.)
11 Baldemar Padilla-Lizarraga,) FINDINGS AND
12 Defendant.) RECOMMENDATION OF THE
13) MAGISTRATE JUDGE UPON A
14) PLEA OF GUILTY AND ORDER

15 TO: THE HONORABLE FREDERICK J. MARTONE, UNITED STATES DISTRICT
16 JUDGE.

17 Upon defendant's request to enter a plea of guilty pursuant to Rule 11,
18 FED.R.CRIM.P. this matter came on for hearing before U.S. Magistrate Judge Michelle H.
19 Burns on August 31, 2011, with the written consents of the defendant, counsel for the
20 defendant, and counsel for the United States of America and an Order of Referral from the
21 assigned District Judge.

22 In consideration of that hearing and the statements made by the defendant under
23 oath on the record and in the presence of counsel, and the remarks of the Assistant United
24 States Attorney and of counsel for defendant,

25 (A) I FIND as follows:

26 (1) that defendant understands the nature of the charge to which defendant pleads
27 and the elements of the offense to which defendant is pleading guilty;

28 (2) that defendant understands the right to trial by jury, to persist in a plea of not
guilty, to the assistance of counsel at trial, to confront and cross-examine adverse
witnesses, and the right against compelled self-incrimination;

1 (3) that defendant understands what the maximum possible sentence is, including
2 the effect of the supervised release term, and defendant understands that the sentencing
3 guidelines are only advisory and that the sentencing District Judge may depart from those
4 guidelines under some circumstances;

5 (4) that the plea of guilty by the defendant has been knowingly and voluntarily made
6 and is not the result of force or threats or of promises apart from the plea agreement
7 between the parties;

8 (5) that defendant is competent to plead guilty;

9 (6) that the defendant understands that answers given by defendant may later be
10 used in a prosecution for perjury or false statement;

11 (7) that the defendant understands that by pleading guilty the defendant is waiving
12 the right to a jury trial;

13 (8) that the defendant understands the terms of any plea agreement provision
14 waiving the right to appeal or to collaterally attack the sentence and has knowingly,
15 intentionally and voluntarily waived those rights;

16 (9) that there is a factual basis for the defendant's plea;

17 (10) that defendant is satisfied with the representation provided by defense counsel;
18 and further,

19 (B) **I RECOMMEND** that the plea of Guilty to Count One of the Indictment be
20 accepted subject to the Court's acceptance of the plea agreement which shall remain lodged
21 with the Court pending Judge Martone's decision whether to accept or reject the plea
22 agreement after review of the presentence report.

23 **ORDER**

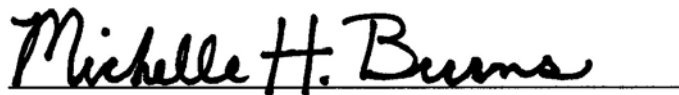
24 **IT IS ORDERED** that any objection to the guilty plea proceedings and any
25 request(s) for supplementation of those proceedings be made by the parties in writing and
26 shall be specific as to the objection(s) or request(s) made. All objections or requests for
27 supplementation shall be filed within fourteen (14) days of the date of service of a copy of
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1 these findings unless extended by an Order of the assigned district judge.

2 **IT IS FURTHER ORDERED** that all character letters defendant would like the
3 sentencing judge to read and consider before pronouncing sentence (including the
4 translation of any documents from Spanish to English) must be submitted in paper form
5 with the original to the probation office and copies to the sentencing judge and opposing
6 counsel no later than seven (7) business days prior to the sentencing date or they may be
7 deemed untimely by the sentencing judge and not therefore considered. (ECF Manual, II §
8 O at 24)

9 **IT IS FURTHER ORDERED** that any motions for upward departure, downward
10 departure and sentencing memoranda must be filed, at least, seven (7) business days prior
11 to the sentencing date. Responses are due three (3) business days prior to the sentencing
12 date. Any motion to continue sentencing must be filed promptly upon discovery of the
13 cause for continuance and must state the cause with specificity. Motions to continue
14 sentencing filed less than fourteen (14) days before sentencing are disfavored.

15 DATED this 6th day of September, 2011.

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17 Michelle H. Burns
18 United States Magistrate Judge
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